

To: Cantor, Howard[cantor.howard@epa.gov]; Hestmark, Martin[Hestmark.Martin@epa.gov]; Stavnes, Sandra[Stavnes.Sandra@epa.gov]; Smith, Paula[Smith.Paula@epa.gov]; Mylott, Richard[Mylott.Richard@epa.gov]
Cc: Boydston, Michael[Boydston.Michael@epa.gov]
From: Schmit, Ayn
Sent: Wed 9/11/2013 7:20:19 PM
Subject: FW: Pavillion

Soraghan article...

From: Campbell, Darcy
Sent: Wednesday, September 11, 2013 11:05 AM
To: Oberley, Gregory; Schmit, Ayn; Bloom, Judy; Russell, Carol; Pfeiffer, Tricia
Subject: FW: Pavillion

From: McKinley, Michael [<mailto:mmckinle@blm.gov>]
Sent: Wednesday, September 11, 2013 9:30 AM
To: Campbell, Darcy
Subject: Pavillion?

Wednesday, September 11, 2013 — 8:52 AM

SPOTLIGHT

1. WHITE HOUSE:

Top Obama aide worked the Pavillion fracking investigation

Mike Soraghan, E&E reporter

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Pavillion, Wyo., is a tiny community of fewer than 300 people, nearly 2,000 miles from Washington, D.C., in a deeply Republican state that President Obama never had any chance of winning.

But Obama's top aide on energy issues, Heather Zichal, took a significant interest in the community's water supply in late 2011 and early 2012.

Documents show that Zichal, deputy assistant to the president for energy and climate change, monitored and managed developments behind the scenes as U.S. EPA prepared to release its findings that hydraulic fracturing had contaminated groundwater in Pavillion.

Those findings had outsized implications for the country's oil and gas drilling boom. They would serve as the first documentation of water contamination from hydraulic fracturing. Advances in the process have been behind the surge in domestic production.

Industry had long held that there had never been a documented instance of such contamination. But the EPA report stood to puncture that talking point. Nearly three years later, EPA has abandoned the investigation, and the implications of its findings are unclear.

Emails obtained by *EnergyWire* through the Freedom of Information Act show that Zichal got briefings from top EPA officials as they prepared to release the report, was informed the afternoon before the report was rolled out in December 2011 and sought to manage the fallout when it came under criticism.

"Can we get some talking points on this asap?" Zichal wrote to then-Deputy EPA Administrator Bob Perciasepe on Jan. 3, 2012, above a news story on flaws in EPA's handling of the sampling process.

The FOIA documents also show that Zichal emailed with then-EPA Administrator Lisa Jackson on the Pavillion investigation. Jackson herself showed considerable interest in the case, sending nearly 100 emails involving Pavillion between November 2010 and April 2011, including a few from her personal email account.

Jackson had also taken a close interest in a drilling contamination case in Texas that was dropped in 2012 (*EnergyWire*, Feb. 13).

White House officials say there is nothing unusual in Zichal's involvement in Pavillion. But environmentalists and other groups say it indicates that politics might have been intruding on science.

EPA's Pavillion report found fracking fluids to be present in deep groundwater but not the area's shallower drinking water. The drilling and fracking that took place in Pavillion bears little resemblance to the mile-deep, high-volume drilling taking place in shale formations in Pennsylvania and North Dakota. But the report became a go-to example for environmentalists and others worried that fracturing could contaminate groundwater.

The findings ran into a buzz saw of criticism from the oil and gas industry and state officials. They deemed it sloppy and lacking in transparency. And when the U.S. Geological Survey said it couldn't replicate the results from one of the wells, they said their criticisms were validated.

EPA abandoned the Pavillion investigation earlier this summer with little explanation (*EnergyWire*, June 21). It was EPA's third retreat from a drilling contamination investigation during the Obama administration, joining methane migration cases in Texas and Pennsylvania.

The agency handed the investigation to Wyoming state officials, though the people with fouled water say the state long ignored their concerns and the state had fought EPA on the study. Wyoming will continue with the help of a \$1.5 million grant from Encana Oil & Gas Inc., the company accused of contaminating the water.

EPA says it stands by its results but will not rely on them in the future.

The White House emails add to questions from environmentalists and conservative groups about the role politics played in bringing the Pavillion investigation and in abandoning it. Similar concerns have been raised about the other two cases.

EPA scientists had already found merit to the case by the time the emails show the White House getting involved, said Amy Mall of the Natural Resources Defense Council. But Zichal's interest makes Mall wonder what role the White House played in EPA's retreat in Pavillion and the other two cases.

"This leaves open to question whether political involvement played a role in dropping these three cases," Mall said.

Food & Water Watch, which wants fracking banned, is calling on EPA to reopen all three pollution investigations, said Emily Wurth, the group's water program director.

Conservative lawyer Christopher Horner has already been pursuing evidence he says he obtained that the Obama administration retreated from the Pennsylvania case, in Dimock, out of fear that the investigation might hurt Obama's re-election chances in 2012 (*EnergyWire*, July 30). He said White House involvement in the Pavillion case strikes a similar chord.

"That is consistent with the information presented to me about the Dimock case," Horner said, "that politics were guiding the proceedings and political considerations were at play."

Asked for comment, a White House official said Zichal's involvement was not unusual and didn't interfere with EPA's scientific decisionmaking.

"The White House has a coordinating role across agencies, and it is common practice for agencies to let the White House know about major announcements that are coming," the White House official said. "As the correspondence shows, the EPA conducts these analyses, not the White House, and this specific engagement is consistent with the administration's strong

commitment to scientific integrity.”

“Furthermore,” the official said, “in recognizing that many agencies are involved in policy around natural gas, the president created an interagency working group with the White House to coordinate policy issues and engage in long-term planning on natural gas.”

Zichal led the working group.

Zichal's role in regulations

Zichal, a former aide to then-Sen. John Kerry (D-Mass.), started in the White House as the assistant to energy and climate "czar" Carol Browner, who left in 2011. In the past year or so, Zichal has taken on an increasingly high-profile role as the White House's chief ambassador to oil and gas companies.

That role arose in part from industry lobbying. The working group on drilling that Obama tapped Zichal to head was requested by the American Petroleum Institute. Her handling of that assignment has earned her some praise from people in the oil and gas industry and criticism from environmentalists who follow drilling issues.

Zichal has played an important role in the administration's handling of proposed regulations for fracking on public lands. She met more than 20 times in 2012 with industry groups and company executives lobbying on the proposed rule, according to an *EnergyWire* review of White House visitor records (*EnergyWire*, April 12).

Environmental groups, which had far fewer meetings with her on the rule, have complained that the increased access is related to the administration's decisions to weaken the rule.

White House visitor records show Zichal met with another top EPA official, senior policy counsel Bob Sussman, in the White House complex three times from October to December 2011. Those records offer no details of what gets discussed. But emails released by EPA under FOIA indicate that Sussman was Zichal's point of contact at EPA on the Pavillion issue.

About three weeks before the rollout, Zichal noted to Sussman in an email that EPA had done a briefing on the report for Sen. James Inhofe (R-Okla.) and asked whether the agency had done the same for Wyoming's congresswoman and two senators. When he hadn't replied the next day, Zichal followed up -- "Sorry, any update here?"

In November 2011, EPA gave the results of its testing to residents at a community meeting in Pavillion. The next morning, Sussman wrote Zichal that he had the details. Zichal replied, "Great. Will call as soon as this meeting wraps."

The night before the report came out in December, Sussman notified her it would be out the next day and added, "Happy to provide more details."

Dozens more emails between Zichal and Sussman, Jackson and other top EPA officials were

withheld under exemptions to FOIA, but their subject lines indicate they concerned the Pavillion investigation.